



General Assembly

February Session, 2020

Raised Bill No. 5381

LCO No. 2047



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING PUBLIC ENFORCEMENT ACTIONS AND FORCED ARBITRATION AGREEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2020*) (a) As used in this section:

2 (1) "Public enforcement action" means a civil action brought pursuant
3 to this section to enforce protections enforceable by the state through a
4 public enforcement agency;

5 (2) "Responsible state official" means a person authorized to enforce
6 any provision of title 31 or section 46a-60 or 46a-81c of the general
7 statutes or to impose or seek penalties or other remedies for violations
8 of such title or section, including persons delegated to act on the
9 responsible state official's behalf with respect to enforcing such title or
10 section, imposing or seeking penalties or other remedies for violations
11 of such title or section or receiving and disposing of notices pursuant to
12 this section;

13 (3) "Relator" means a whistleblower or a representative organization
14 that acts as a qui tam plaintiff in a public enforcement action under this

15 section;

16 (4) "Representative organization" means a nonprofit corporation or a
17 labor organization that assists in enforcement pursuant to this section
18 and that has been selected by a whistleblower to initiate a public
19 enforcement action on the whistleblower's behalf, in writing, in a form
20 prescribed by the Attorney General; and

21 (5) "Whistleblower" means any current or former employee,
22 contractor, subcontractor or employee of a contractor or subcontractor
23 of a defendant.

24 (b) A relator, on behalf of the state and in the name of the state, may
25 initiate a public enforcement action pursuant to the procedures specified
26 in this section. Such action may be brought in the Superior Court and
27 may allege multiple violations that have affected different individuals
28 aggrieved by the same defendant and may seek any injunctive and
29 declaratory relief that the state would be entitled to seek.

30 (c) For purposes of public enforcement actions brought pursuant to
31 this section, whenever the state is authorized to assess a civil penalty,
32 the court is authorized to assess such a civil penalty. To the extent that
33 the state is authorized to determine if an employer has violated a
34 provision of this section, the court is authorized to determine that an
35 employer has committed such a violation.

36 (d) For any provision of this section where no civil penalty is
37 specifically provided by law, there shall be a civil penalty of five
38 hundred dollars. Such civil penalty shall be awarded for each party
39 aggrieved by each violation during each two-week period that such
40 violation occurs.

41 (e) The court may award a lesser amount of civil penalties than those
42 specified in this section if, based on the facts and circumstances of the
43 particular case, to do otherwise would result in an award that is
44 arbitrary and oppressive or confiscatory.

45 (f) The state is authorized to assess penalties if the state has
46 intervened in a public enforcement action pursuant to this section.

47 (g) Nothing in this section shall operate to limit the state's right to
48 seek restitution and damages, where available, for relators as part of a
49 public enforcement action in which it has intervened.

50 (h) A relator that prevails in an action pursuant to this section,
51 whether or not the state has intervened in such action, shall be entitled
52 to an award by the court of reasonable attorney's fees and costs.

53 (i) Civil penalties recovered in a public enforcement action pursuant
54 to this section shall be distributed as follows: (1) Where the state has not
55 intervened, (A) thirty per cent to the relator, (B) twenty per cent to the
56 Office of the Attorney General, and (C) fifty per cent to the office of the
57 state official responsible for enforcement of such action, and (2) where
58 the state has intervened, (A) twenty per cent to the relator, (B) thirty per
59 cent to the Office of the Attorney General, and (C) fifty per cent to the
60 office of the state official responsible for enforcement of such action.

61 (j) The relator shall equitably distribute all penalties due the relator
62 among the parties aggrieved by the practices complained of in the
63 public enforcement action. The relator shall submit a written
64 distribution summary to the state and the state may order a different
65 distribution not later than sixty days after receipt of the summary,
66 provided the relator shall receive a service award that reflects the
67 burdens and risks assumed by the relator in prosecuting the action,
68 including any costs incurred by a representative organization that
69 serves as a relator.

70 (k) The right to bring a public enforcement action under this section
71 shall not be impaired by any private agreement.

72 (l) Notwithstanding any other provision of the general statutes, a
73 public enforcement action to recover penalties imposed pursuant to this
74 section shall be commenced within the same period of time that the state
75 has to file a public enforcement action based on the same set of alleged

76 violations. The statute of limitations for bringing a public enforcement
77 action pursuant to this section shall be tolled from the date a relator files
78 a notice pursuant to this section with the state, or the date the state
79 commences an investigation, whichever is earlier.

80 (m) A relator may not bring a public enforcement action pursuant to
81 this section: (1) If the state, on the same facts and theories, cites a person
82 within the time periods set forth in this section for a violation of the
83 same authority under which such relator is attempting to recover a civil
84 penalty or other remedy, or (2) for any violation of a posting, notice,
85 agency reporting or filing requirement, except where the filing or
86 reporting requirement involves mandatory payroll or injury reporting.

87 (n) No employer or his or her agent, or the officer or agent of any
88 corporation, partnership or limited liability company or any other
89 person shall retaliate in any manner against any relator or potential
90 relator or person, or threaten to retaliate, because: (1) The relator or
91 potential relator has brought or is perceived to have brought a public
92 enforcement action, (2) the relator or potential relator has cooperated in
93 a public enforcement action, or (3) the person believes that the relator or
94 potential relator may bring a public enforcement action or cooperate
95 with one.

96 (o) Any person aggrieved by a violation of subsection (n) of this
97 section may bring an action in Superior Court for compensatory,
98 liquidated and punitive damages or equitable relief, including restraint
99 of prohibited acts, restitution of wages or benefits, reinstatement, costs,
100 reasonable attorney's fees and other appropriate relief.

101 (p) There shall be a rebuttable presumption that any adverse action
102 taken against a relator not later than ninety days after the relator has
103 filed an action pursuant to subsection (b) of this section is retaliatory.

104 (q) Before filing a public enforcement action pursuant to this section,
105 a relator shall submit written notice of such action to each responsible
106 state official and to the Attorney General. The notice shall be construed
107 in the light most favorable to the relator, and shall include: (1) The name,

108 address and contact information of the alleged violator, (2) the name
109 and contact information of the relator, (3) the name, address and contact
110 information of the representative organization, and a statement of the
111 organization's qualifications as a representative organization, if the
112 action is brought by a representative organization, (4) the name, address
113 and contact information of the relator's legal counsel, if such relator has
114 legal counsel, and (5) a statement of the underlying claim.

115 (r) If the state intends to investigate the alleged violation, it shall
116 notify the relator of its decision not later than sixty days after receiving
117 notice pursuant to subsection (q) of this section.

118 (s) Not later than thirty days after the filing of a public enforcement
119 action, the state may intervene as of right and proceed with any and all
120 claims in the action. After such thirty-day period, the state may only
121 intervene in the public enforcement action for good cause shown, as
122 determined by the court.

123 (t) The provisions of this section shall be construed in light of its
124 remedial purpose to expand the enforcement of state law protecting
125 employees.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2020</i>	New section
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Statement of Purpose:

To allow employees to sue employers on behalf of the state after having waived their personal rights to sue by signing forced arbitration agreements.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]